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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

MSFT-0766 / 191575.01

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DATE OF DEPOSIT: August 16, 2005

on August 16, 2005

Signature [Signature]

Typed or printed name Michael J. Swope

Application Number

10/001,289

Filed

November 1, 2001

First Named Inventor

Michael Rys

Art Unit

2167

Examiner

Susan F. Rayyan

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record.
Registration number 38,041
- ☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

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August 16, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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The Examiner has rejected claims 1-32 under 35 U.S.C. § 102(e) as being anticipated by Lee et al. (US 2002/0169788).

The applicant has repeatedly traversed that rejection by noting that the claims recite “creating a record in a first buffer associated with the first relational table; and copying the record from the first buffer to the first relational table.” This claim clearly requires two things, first, *creating a record in a buffer* and secondly *copying the record from the buffer to a relational table*. The buffer is *associated* with a relational table, but *is not* the relational table itself.

The examiner has not made out a prima facie case of anticipation by showing how each element is found in the cited reference. MPEP § 2131.

In response to the applicants argument regarding the shortcomings of the reference the examiner repeatedly has indicated that:

Applicant argues Lee makes no mention of nodes or rows or columns of a table and reveals no mention of record creation or buffers or copying from buffers to tables.

Final Action p. 6. As an initial matter, the applicants do not argue that “Lee makes no mention of nodes or rows or columns of a table.” Moreover, The applicants repeatedly pointed out that they do not disagree that Lee teach loading XML data into the tables of a relational database. Nevertheless, that doesn’t address the Applicants point, namely, the paragraphs of Lee cited by the examiner say NOTHING regarding creating a record in a buffer and copying records from a buffer to a table.

Accordingly the applicants submit that the Examiner has not met her burden of providing a reference that teaches every element of the claimed invention.